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OGC Has Reviewed

22 January 1947

MEMORANDUM FOR THE DIRECTOR OF PERSONNEL AND ADMINISTRATION

Subject: Payment of Tuition Costs

1. Reference is made to your memorandum to this office, dated 20 January 1947, concerning payment from funds available to CIO of the tuition costs of a CIO employee at a language school. It is stated the employee intends to make a career in the field of intelligence and desires to be sent to a language school for the purpose of obtaining instruction in the speaking and writing of the Russian language. You request an opinion whether CIO funds can be used for this purpose (a) when operational necessity exists, and (b) when operational necessity does not exist but where the employee is willing to take such instruction during other than official working hours.

2. You suggest that the War Department is authorized to pay for certain tuition costs from the funds available to that department. In the current Appropriation Act for the Military Establishment (Public Law 515, approved 16 July 1946), funds are appropriated for creating, maintaining and operating at established aviation and related schools courses of instruction for military personnel, including payment of tuition. This is one example of specific statutory authority granted to the War Department to pay such expenses. In addition, section 7 of Public Law 515 provides, "Appropriations for the Military Establishment for the fiscal year 1947 shall be available for all necessary expenses in connection with the instruction and training, including tuition, not otherwise provided for, of civilian employees in and under the War Department and the Military Establishment."

3. Questions of this nature have been presented to the Comptroller General for rulings. In CG Comptroller General 651, dated 5 March 1944, it is stated in effect that, while as a general rule appropriated money may not be used to send Government employees to schools or to take special courses of training, in view of the specific statutory authority granted by the Appropriation Act in question, there would be no legal objection in the case concerned to the use of the appropriation referred to for all necessary expenses incident to the attendance of designated officers or employees in the school, including tuition. Other rulings of the Comptroller General are consistent with the cited case and rely in each instance upon the granting of specific statutory authority to pay such expenses.

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4. In view of the wording of the current War Department Appropriation Act, it is the opinion of this office that funds made available to CIG from the War Department appropriation may not be expended for the payment of tuition of CIG employees upon the authority contained in the Act to pay such expenses for civilian employees in and under the War Department and Military Establishment. Where authority is granted in other provisions of the Appropriation Act to pay tuition expenses, such authority is likewise limited to military personnel or civilian employees in and under the War Department and Military Establishment.

5. Therefore, this office is of the opinion that tuition expenses and other related expenses incident to the sending of a CIG employee to a language school may not be paid from the funds available to CIG where there is no operational necessity. If it administratively is determined that it is necessary to send a particular employee of CIG to a school to acquire certain qualifications or knowledge essential in the performance of his duties for CIG and which are not otherwise available, there would appear to be no legal objection to the payment of tuition costs and other directly related expenses from the unvouchered funds available to CIG. The appropriate use of funds for this purpose would be based on a determination that such expenditures are necessary in the operations of CIG and should be supported by the facts in each particular case.

6. It is the opinion of this office that the approval for the expenditure of unvouchered funds for such a purpose necessarily must come from the Director, since current Special Funds Regulations do not provide for the payment of such expenses.

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[REDACTED] Assistant General Counsel

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